DOCUMENT RESUME

ED 154 542 EA 010 674

TITLE	Laws, Regulations and Guidelines. Apportionment to Nonpublic Schools. Chapters 507 and 508 of the Laws of 1974.
INSTITUTION	New York State Education Dept., Albany.
PUB DATE	Jun 74
NOTE	37p.
EDRS PRICE	MF-$0.83 HC-$2.06 Plus Postage.
DESCRIPTORS	Administrator Guides; *Educational Legislation; Elementary Secondary Education; *Nonpublic School Aid; *Private Schools; *State Legislation
IDENTIFIERS	*New York

ABSTRACT

The purpose of this document is to furnish information concerning reimbursement by the state of New York to private schools for services rendered to the state and to provide an explanation regarding procedures for implementation. Chapter 507 of the Laws of 1974 provides for the apportionment of state funds to qualifying private schools for the reimbursement of the actual costs of services incurred in meeting mandates that are required by law in connection with testing, evaluating, and reporting. The document consists of excerpts for the State Education Law that pertain to private schools, of pertinent Regents Rules and Regulations of the Commissioner of Education, as well as guidelines for the establishment of administrative procedures. (Author/MLF)

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LAWS, REGULATIONS AND GUIDELINES

Apportionment to Nonpublic Schools

Chapters 507 and 508 of the Laws of 1974

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June 1974

EA 010 674

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FOREWORD

As a result of the 1974 legislative session, an important new law has been enacted concerning State reimbursement to nonpublic schools for services rendered to the State.

Chapter 507 of the Laws of 1974 provides for the apportionment of State funds to qualifying nonpublic schools for the reimbursement of the actual costs of services incurred in meeting mandates which are required by law in connection with testing, evaluating, and reporting.

The Legislature, in providing State funds for these purposes, has recognized that the State has the duty and authority to evaluate, through a system of uniform testing and reporting procedures, the quality and effectiveness of instruction to assure that those who are receiving instruction, as required by law, are being adequately educated within their individual capabilities.

The purpose of this document is to furnish information concerning the new law and to provide an explanation regarding procedures for implementation. Consequently, the document consists of excerpts from the State Education Law which pertain to nonpublic schools, of pertinent Regents Rules and Regulations of the Commissioner of Education, as well as guidelines for the establishment of administrative procedures.

The assistance of public and nonpublic school officials in arranging for the appropriate administration of this new law is much appreciated.

Ewald B. Nyquist

Commissioner of Education

CONTENTS

	Page
Foreword	
Chapter 507 Laws of 1974	1
Other Relevant Statutory Provisions	4
Regulations of the Commissioner — § 101.7	25
Rules of the Board of Regents and Regulations of the Commissioner of Education — Chapter 507	26
General Definitions and Guidelines -- Chapter 507 Laws of 1974	
I. Definitions	28
II. Religious or Denominational Education Institutions	29
III. Report Forms	29
IV. Criteria for Apportionment	30
V. Directions for Completing Apportionment Forms	31
1. Application for Nonpublic School Apportionment	31
2. Nonpublic Apportionment Worksheet	31
3. Justification of Salary and Fringe Benefit Costs	32
VI. Payment of Apportionment	32

Relevant Statutory Provisions

Chapter 507 of the Laws of 1974 as amended by Chapter 508 thereof

AN ACT

To provide for the apportionment of state monies to certain nonpublic schools, to reimburse them for their expenses in complying with certain state requirements for the administration of state testing and evaluation programs and for participation in state programs for the reporting of basic educational data

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings. The legislature hereby finds and declares that:

The state has the responsibility to provide educational opportunity of a quality which will prepare its citizens for the challenges of American life in the last decades of the twentieth century.

To fill this responsibility, the state has the duty and authority to evaluate, through a system of uniform state testing and reporting procedures, the quality and effectiveness of instruction to assure that those who are attending instruction, as required by law, are being educated within their individual capabilities.

In public schools these fundamental objectives are accomplished in part through state financial assistance to local school districts.

More than seven hundred thousand pupils in the state comply with the compulsory education law by attending nonpublic schools. It is a matter of state duty and concern that such nonpublic schools be reimbursed for the actual costs which they incur in providing services to the state which they are required by law to render in connection with the state's responsibility for reporting, testing and evaluating.

§ 2. Definitions.

1. "Commissioner" shall mean the state commissioner of education.

2. "Qualifying school" shall mean a nonprofit school in the state, other than a public school, which provides instruction in accordance with section thirty-two hundred four of the education law.

§ 3. Apportionment.

The commissioner shall annually apportion to each qualifying school, for school years beginning on and after July first, nineteen hundred seventy-four, an amount equal to the actual cost incurred by each school during the preceding school year for providing services required by law to be rendered to the state in compliance with the requirements of the state's pupil evaluation program, the basic educational data system, regents examinations, the statewide evaluation plan, the uniform procedure for pupil attendance reporting, and other similar state prepared examinations and reporting procedures.

§ 4. Application.

Each school which seeks an apportionment pursuant to this act shall submit to the commissioner an application therefor, together with such additional reports and documents as the commissioner may require, at such times, in such form and containing such information as the commissioner may prescribe by regulation in order to carry out the purposes of this act.

§ 5. Maintenance of records.

Each school which seeks an apportionment pursuant to this act shall maintain a separate account or system of accounts for the expenses incurred in rendering the services required by the state to be performed in connection with the reporting, testing and evaluation program enumerated in section three of this act. Such records and accounts shall contain such information and be maintained in accordance with regulations issued by the commissioner, but for expenditures made in the school year nineteen hundred seventy-three-seventy-four, the application for reimbursement made in nineteen hundred seventy-four pursuant to section four of this act shall be supported by such reports and documents as the commissioner shall require. In promulgating such record and account regulations and in requiring supportive documents with respect to expenditures incurred in the school year nineteen hundred seventy-three-four, the commissioner shall facilitate the audit procedures described in section seven of this act. The records and accounts for each school year shall be preserved at the school until the completion of such audit procedures.

§ 6. Payment.

No payment to a qualifying school shall be made until the commissioner has approved the application submitted pursuant to section four of this act.

§ 7. Audit.

No application for financial assistance under this act shall be approved except upon audit of vouchers or other documents by the commissioner as are necessary to insure that such payment is lawful and proper.

The state department of audit and control shall from time to time examine any and all necessary accounts and records of a qualifying school to which an apportionment has been made pursuant to this act for the purpose of determining the cost to such school of rendering the services referred to in section three of this act. If after such audit it is determined that any qualifying school has received funds in excess of the actual cost of providing the services enumerated in section three of this act, such school shall immediately reimburse the state in such excess amount.

§ 8. Noncorporate entities.

Apportionments made for the benefit of any school which is not a corporate entity shall be paid, on behalf of such school, to such corporate entity as may be designated for such purpose pursuant to regulations promulgated by the commissioner. A school which is a corporate entity may designate another corporate entity for the purpose of receiving apportionments made for the benefit of such school pursuant to this act.

§ 9. In enacting this chapter it is the intention of the legislature that if section seven or any other provision of this act or any rules or regulations promulgated thereunder shall be held by any court to be invalid in whole or in part or inapplicable to any person or situation, all remaining provisions or parts thereof or remaining rules and regulations or parts thereof not so invalidated shall nevertheless remain fully effective as if the invalidated portion had not been enacted or promulgated, and the application of any such invalidated portion to other persons not similarly situated or other situations shall not be affected thereby.

§ 10. This act shall take effect July first, nineteen hundred seventy-four.

NOTE: Section 9 of the bill was added by Chapter 508 of the Laws of 1974.

Other Relevant Statutory Provisions

EDUCATION LAW

§215. Visitation and reports.

The regents, or the commissioner of education, or their representatives, may visit, examine into and inspect, any institution in the university and any school or institution under the educational supervision of the state, and may require, as often as desired, duly verified reports therefrom giving such information and in such form as the regents or the commissioner of education shall prescribe. For refusal or continued neglect on the part of any institution in the university to make any report required, or for violation of any law or any rule of the university, the regents may suspend the charter or any of the rights and privileges of such institution.

§ 801. Courses of instruction in patriotism and citizenship and in certain historic documents.

1. In order to promote a spirit of patriotic and civic service and obligation and to foster in the children of the state moral and intellectual qualities which are essential in preparing to meet the obligations of citizenship in peace or in war, the regents of the University of the State of New York shall prescribe courses of instruction in patriotism and citizenship, to be maintained and followed in all the schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools, over the age of eight years, shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools over eight years of age shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils of like age in the public schools of the city or district in which such pupils reside.

2. The regents shall prescribe courses of instruction in the history, meaning, significance and effect of the provisions of the constitution of the United States, the amendments thereto, the declaration of independence, the constitution of the state of New York and the amendments thereto, to be maintained and followed in all of the schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils

attending such schools, in the eighth and higher grades, shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools in grades or classes corresponding to the instruction in the eighth and higher grades of the public schools shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils in the public schools of the city or district in which such pupils reside.

3. The regents shall determine the subjects to be included in such courses of instruction in patriotism and citizenship and in the history, meaning, significance and effect of the provisions of the constitution of the United States, the amendments thereto, the declaration of independence, the constitution of the state of New York and the amendments thereto, and the period of instruction in each of the grades in such subjects. They shall adopt rules providing for attendance upon such instructions and for such other matters as are required for carrying into effect the objects and purposes of this section. The commissioner of education shall be responsible for the enforcement of such section and shall cause to be inspected and supervise the instruction to be given in such subjects. The commissioner may, in his discretion, cause all or a portion of the public school money to be apportioned to a district or city to be withheld for failure of the school authorities of such district or city to provide instruction in such courses and to compel attendance upon such instruction, as herein prescribed, and for a non-compliance with the rules of the regents adopted as herein provided.

4. The regents shall designate a week during each year and prescribe a uniform course of exercises in the public schools of the state suitable for pupils of various ages to instill into the minds of such pupils the purpose, meaning and importance of the bill of rights articles in the federal and state constitutions. Such exercises shall be in addition to any prescribed courses of study in the schools.

§ 802. Instruction relating to the flag; holidays.

1. It shall be the duty of the commissioner of education to prepare, for the use of the public schools of the state, a program providing for a salute to the flag and a daily pledge of allegiance to the flag, for instruction in its correct use and display and such other patriotic exercises and as may be deemed by him to be expedient, under such regulations and instructions as may best meet the varied requirements of the different grades in such schools.

2. It shall also be his duty to make special provision for the observance in the public schools of Lincoln's birthday, Washington's birthday, Memorial day and Flag day, and such other legal holidays of like character as may be hereafter designated by law when the legislature makes an appropriation therefor.

3. Nothing herein contained shall be construed to authorize military instruction or drill in the public schools during school hours, except that the board of education of any school district may offer during school hours a junior reserve officer training program in conjunction with the United States Department of Defense to those students in grades nine through twelve who are at least fourteen years of age provided that enrollment and participation in such program is voluntary on the part of the student and written consent of a parent or guardian is submitted by such student and further provided, that the conduct of instruction on or the presence within any school of any type of current or future weaponry as part of such program is prohibited.

§ 803. Instruction in physical education and kindred subjects.

1. All pupils above the age of eight years in all elementary and secondary schools, shall receive as part of the prescribed courses of instruction therein such physical education under the direction of the commissioner of education as the regents may determine. Such courses shall be designed to aid in the well-rounded education of pupils and in the development of character, citizenship, physical fitness, health and the worthy use of leisure. Pupils above such age attending the public schools shall be required to attend upon such prescribed courses of instruction.

2 The board of education or trustees of every school district regularly employing twenty or more teachers shall employ a teacher or teachers qualified and duly licensed under the regulations of the regents to give such instruction; in every other district of the state, they shall require such instruction to be given by the teacher or teachers regularly employed to give instruction in other subjects or by a teacher or teachers qualified and duly licensed under the regulations of the regents.

3. The boards of education or trustees to two or more contiguous districts in the same supervisory district, however, may join in the employment of a teacher qualified and duly licensed under the regulations of the regents to give such instruction; and the salary of such teacher and the expenses incurred on account of such instruction shall be apportioned by the district superintendent among such districts according to the assessed valuation thereof, and as so apportioned shall be a charge upon each of such districts.

4. Similar courses of instruction shall be prescribed and maintained in private schools in the state and all pupils in such schools over eight years of age shall attend upon such courses; and if such courses are not so established and maintained in any private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to children of like ages in the public school or schools of the city or district in which the child resides.

5. It shall be the duty of the regents to adopt rules determining the subjects to be included in courses of physical education provided for in this section, the period of instruction in each of such courses, the qualifications of teachers, and the attendance upon such courses of instruction.

6. The physical education hereinbefore provided for, may be given, when practicable in any armory of the state where such armory is within convenient distance from the school, and at such times and in such manner as not to interfere with the regular military uses of such armory. The commanding officer in charge of any such armory shall, upon application made by any board of education or trustees of the several cities and school districts within the state, permit access to any such armory, for the purposes herein mentioned.

§ 804. Instruction regarding nature of alcoholic drinks.

1. The nature of alcoholic drinks and their effects on the human system shall be taught in connection with the various divisions of physiology and hygiene as thoroughly as are other branches in all schools under state control, or supported wholly or in part by public money of the state, and also in all schools connected with reformatory institutions.

2. All pupils in the above-mentioned schools below the second year of high school and above the third year of school work computing from the beginning of the lowest primary, not kindergarten, year, or in corresponding classes of ungraded schools, shall be taught and shall study this subject every year with suitable text-books in the hands of all pupils, for not less than three lessons a week for ten or more weeks, or the equivalent of the same in each year, and must pass satisfactory tests in this as in other studies before promotion to the next succeeding year's work; except that, where there are nine or more years below the high school, the study may be omitted in all years above the eighth year and below the high school, by such pupils as have passed the required tests of the eighth year.

3. In all schools above-mentioned, all pupils in the lowest three primary, not kindergarten, school years or in corresponding classes in ungraded schools shall each year be instructed in this subject orally for not less than two lessons a week for ten weeks, or the equivalent of the same in each year, by teachers using text-books adapted for such oral

instruction as a guide and standard, and such pupils must pass such tests in this as may be required in other studies before promotion to the next succeeding year's work. Nothing in this section shall be construed as prohibiting or requiring the teaching of this subject in kindergarten schools.

4. The local school authorities shall provide needed facilities and define time and place for this branch in the regular courses of study.

5. The textbooks in the pupils' hands shall be graded to the capacities of fourth year, intermediate, grammar and high school pupils, or to corresponding classes in ungraded schools. For students below high school grade, such textbooks shall give at least one-fifth their space, and for students of high school grade, shall give not less than twenty pages to the nature and effects of alcoholic drinks. This subject must be treated in the textbooks in connection with the various divisions of physiology and hygiene, and pages on this subject in a separate chapter at the end of the books shall not be counted in determining the minimum. No textbook on physiology not conforming to this section shall be used in the public schools.

6. All regents' examinations in physiology and hygiene shall include a due proportion of questions on the nature of alcoholic drinks and their effects on the human system.

7. In all state teachers colleges and state colleges for teachers adequate time and attention shall be given to instruction in the best methods of teaching this branch, and no teacher shall be licensed who has not passed a satisfactory examination in the subject and the best methods of teaching it.

§ 804-a. Instruction regarding the nature and effects of narcotics and habit-forming drugs.

1. The courses of study beyond the first eight years of full time public day schools shall provide for instruction in the nature and effects on the human system of narcotics and habit-forming drugs, in accordance with the provisions of this section.

2. It shall be the duty of the commissioner to prescribe such courses of instruction as he may deem necessary and desirable for the welfare of the student and the community. The contents of such courses may be varied to meet the needs of particular school districts, or portions thereof, and need not be uniform throughout the state. The courses shall emphasize desirable health habits, attitudes and knowledge of the effects of narcotics and habit-forming drugs upon the physical, mental and emotional development of children and youth.

3. The local school authorities shall provide needed facilities and definite time and place for such subjects as prescribed by the commissioner.

4. Similar courses of instruction shall be prescribed and maintained in all private secondary schools in this state.

5. In all state teachers colleges and state colleges for teachers adequate time and attention shall be given to instruction in the best methods of teaching such subjects, and no teacher shall be licensed to teach at the secondary level who has not passed a satisfactory examination in such subjects and the best methods of teaching them.

§ 805. Enforcement.

1. On satisfactory evidence that any teacher has wilfully refused to teach such subjects, as provided in sections eight hundred four and eight hundred four-a, the commissioner of education shall revoke the license of such teacher.

2. No public money of the state will be apportioned by the commissioner of education or paid for the benefit of any city school district of a city having one hundred twenty-five thousand inhabitants or more according to the latest federal census until the superintendent of schools therein shall have filed with the treasurer or chamberlain of such city an affidavit, and with the commissioner of education a duplicate of such affidavit, that he has made thorough investigation as to the facts, and that to the best of his knowledge, information and belief, the provisions of sections eight hundred four and eight hundred four-a have been complied with in all the schools under his supervision in such district during the last preceding legal school year.

3. No public money of the state shall be apportioned by the commissioner of education or by district superintendents, or paid for the benefit of any school district, including city school districts of cities having less than one hundred twenty-five thousand inhabitants according to the latest federal census, until the president of the board of education, or in the case of common school districts the trustee or any member of the board of trustees, shall have filed with the district superintendent having jurisdiction or, in the case of such a city school district, or other district having its own superintendent of schools, with the commissioner of education, an affidavit that he has made thorough investigation as to the facts and that to the best of his knowledge, information and belief, all the provisions of sections eight hundred four and eight hundred four-a have been complied with in such district, which affidavit shall be included in the trustees' annual report.

4. It shall be the duty of every district superintendent to file with the commissioner of education an affidavit in connection with his annual

report, showing all districts in his jurisdiction that have and those that have not complied with all the provisions of sections eight hundred four and eight hundred four-a, according to the best of his knowledge, information and belief, based upon a thorough investigation by him as to the facts.

5. No public money of the state shall be apportioned or paid for the benefit of any school mentioned herein until the officer having jurisdiction or supervision thereof shall have filed with the commissioner of education an affidavit that he has made thorough investigation as to the facts and that to the best of his knowledge, information and belief, all the provisions of sections eight hundred four and eight hundred four-a relative thereto have been complied with.

6. The principal of each state teachers college and state college for teachers in the state shall at the close of each school year file with the commissioner of education an affidavit that all the provisions of sections eight hundred four and eight hundred four-a applicable thereto have been complied with during the school year just terminated and until such affidavit shall be filed no warrant shall be issued by the commissioner of education for the payment by the treasurer of any part of the money appropriated for such school.

7. It shall be the duty of the commissioner of education to provide blank forms of affidavit required herein for use by the local school officers, and he shall include in his annual report a statement showing every school district which has failed to comply with all the provisions of sections eight hundred four and eight hundred four-a during the preceding school year.

8. On complaint by appeal to the commissioner of education by any patron of the schools mentioned in sections eight hundred four and eight hundred four-a or by any citizen that any provision of such sections has not been complied with in any city or district, the commissioner of education shall make immediate investigation, and on satisfactory evidence of the truth of such complaint, shall thereupon and thereafter withhold all public money of the state to which such city or district would otherwise be entitled, until all the provisions of such sections shall be complied with in said city or district.

§ 806. Courses of instruction in highway safety and traffic regulation; school safety patrols.

1. The regents of the University of the State of New York shall prescribe courses of instruction in highway safety and traffic regulation, which shall include bicycle safety, to be maintained and followed in all the schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to

be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils of like grade in the public schools in the city or district in which such pupils reside.

2. The regents shall determine the subjects to be included in such courses of instruction in highway safety and traffic regulation, including bicycle safety, and the period of instruction in each of the grades in such subjects. They shall adopt rules providing for attendance upon such instruction and for such other matters as are required for carrying into effect the teaching of the courses of instruction prescribed by this section. The commissioner of education shall be responsible for the enforcement of such section and shall cause to be inspected and supervise the instruction to be given in such subjects. The commissioner may, in his discretion, cause all or a portion of the public school money to be apportioned to a district or city to be withheld for failure of the school authorities of such district or city to provide instruction in such courses and to compel attendance upon such instruction, as herein prescribed, and for a noncompliance with the rules of the regents adopted as herein provided.

3. Any board of education or school district board is empowered to organize in the school over which it has control a school safety patrol and, with the written consent of the parents, to appoint pupils as members thereof for the purpose of influencing and encouraging the safe use of highways and highway crossings and bicycles by the pupils of the school. Nothing herein contained shall be construed to authorize or permit the use of any safety patrol member for the purpose of directing vehicular traffic nor shall any safety patrol member be stationed in that portion of the highway intended for the use of vehicular traffic. Such patrol shall function only under the direction and control of the principal or teacher in charge of such school. No liability shall attach either to the school district or any individual, trustee, board member, superintendent, principal, teacher or other school authority by virtue of the organization, maintenance or operation of a school safety patrol organized, maintained and operated under authority of this section.

§ 807. Fire drills.

1. It shall be the duty of the principal or other person in charge of

every public or private school or educational institution within the state, other than colleges or universities, having more than twenty-five pupils, or maintained in a building two or more stories high to instruct and train the pupils by means of drills, so that they may in a sudden emergency be able to leave the school building in the shortest possible time and without confusion or panic. Such drills or rapid dismissals shall be held at least twelve times in each school year, eight of which required drills shall be held between September first and December first of each year. At least one-third of all such required drills shall be through use of the fire escapes on buildings where fire escapes are provided. At least four additional drills shall be held in each school year during the hours after sunset and before sunrise in school buildings in which students are provided with sleeping accommodations. At least two additional drills shall be held during summer school in buildings where summer school is conducted, and one of such drills shall be held during the first week of summer school.

2. It shall be the duty of the board of education or school board or other body having control of the school in any district or city to cause a copy of this section to be printed in the manual or handbook prepared for the guidance of teachers, where such manual or handbook is in use or may hereafter come into use.

3. It shall be the duty of the person in charge of every public or private college or university within the state, having more than twenty-five students, or maintained in a building two or more stories high to instruct and train the students by means of drills, so that they may in a sudden emergency be able to leave the college or university building in the shortest possible time and without confusion or panic. Such drills shall be held at least three times in each year, one of which required drills shall be held between September first and December first of each such year. In buildings where summer sessions are conducted, one of such required drills shall be held during the first week of such summer session. At least one of such required drills shall be through use of the fire escapes on buildings where fire escapes are provided. At least one additional drill shall be held in each year during the hours after sunset and before sunrise in college or university buildings in which students are provided with sleeping accommodations.

4. Neglect by any principal or other person in charge of any public or private school or educational institution to comply with the provisions of this section shall be a misdemeanor punishable at the discretion of the court by a fine not exceeding fifty dollars; such fine to be paid to the pension fund of the local fire department where there is such a fund.

§ 807-a. Fire inspections.

1. It shall be the duty of the school authorities in general charge of the operation of any public or private school to cause the buildings of such school containing classroom, dormitory, laboratory, physical education, dining or recreational facilities for student use to be inspected at least annually for fire hazards which might endanger the lives of students, teachers and employees therein.

2. The annual fire inspection shall be made prior to the first day of December of every school year and the report thereof shall be filed by the school authorities in the places required by subdivision five of this section no later than the sixteenth day of December of every such year.

3. a. The school authorities shall cause any fire inspection pursuant to this section to be made by one of the following methods, or any combination of such methods:

(1) Employing, either regularly or specially, persons who, in the judgment of the school authorities, are qualified to make such an inspection, or any phase thereof.

(2) Contracting for the making of such inspections, or any phase thereof, by persons who, in the judgment of the school authorities, are qualified.

(3) Requesting inspection by the fire department of any city, town, village of fire district in which the building is located.

(4) Requesting inspection by a fire corporation which is subject to the provisions of section fourteen hundred two of the not-for-profit corporation law, if such building is located within the area described in the certificate of incorporation of any such corporation.

(5) Requesting inspection by the county fire coordinator, or the officer performing the powers and duties of a county fire coordinator pursuant to a local law, of the county in which the building is located, or by any deputy county fire coordinator or deputy of such officer so performing the powers and duties of a county fire coordinator designated to make the inspection by the county fire coordinator or such other officer so performing the powers and duties of a county fire coordinator, if the building is located outside a city, town, village, or fire district, which has its own fire department and outside the area described in the certificate of incorporation of any fire corporation which is subject to the provisions of section fourteen hundred two of the not-for-profit corporation law.

b. If any such inspection, or phase thereof, is to be made by either of the methods specified in subparagraphs (1) and (2) of paragraph a of this subdivision, the school authorities shall give reasonable notice of the date and time such inspection is to be made to the chief engineer, or other comparable officer, of any fire department, or fire corporation, which has the regular duty of fighting fire in the building to be in-

spected. Such officer, or any subordinate, designated by him, may be present during the inspection and may also file a report of inspection in the manner provided in this section.

c. If any fire department or fire corporation described in subparagraphs (3) and (4) of paragraph a of this subdivision shall fail or refuse to make a fire inspection promptly after having been requested to do so by the school authorities, the school authorities may request the county fire coordinator, or the officer performing the powers and duties of a county fire coordinator pursuant to a local law, of the county in which the building is located to make such inspection. It shall be the duty of the county fire coordinator or such other officer so performing the powers and duties of a county fire coordinator, in such case to make such inspection or cause it to be made by a deputy whom he shall designate.

d. Regardless of the method or methods used to accomplish the inspection required by this section, the person making the inspection shall file the report thereof with the school authorities no later than the first day of December.

4. The director of the division of fire safety of the office for local government in the executive department shall prescribe the form of the fire inspection report. The commissioner of education shall furnish a supply of such form to school authorities.

5a. The report of any fire inspection shall be filed in the office of the school authorities and, in the case of private schools, the report also shall be filed in the office of the director of division of fire safety of the office for local government in the executive department and, in the case of public schools, the report also shall be filed with the commissioner of education. All such reports so filed in any public office shall be kept as public records for at least three years after which period they may be destroyed.

b. Within twenty days after the filing of the report with the school authorities, the school authorities shall cause public notice of the filing of such report to be given in substantially the following form: "Notice is hereby given that the annual inspection for (year) of the school building (or of the and school buildings) of (name school district or private school) for fire hazards which might endanger the lives of students, teachers, and employees therein, has been completed and the report thereof is available at the office of (school district or private school) at for inspection by all interested persons." If the inspection was not made for the school authorities by the fire department or fire company responsible for fire protection of the building, such authorities shall cause a copy of such notice to be mailed to the chief of such fire department or company.

c. The school authorities of public schools shall cause such notice to be published at least once in the official newspaper, or if there is no official newspaper, in a newspaper having general circulation in the school district, and if there is no newspaper having general circulation in the district, shall cause such notice to be posted in ten conspicuous places in the district. Proof of publication or posting of such notice and of the mailing of a copy of such notice to the fire chief shall be filed in the office of the district.

d. The school authorities of private schools shall cause such notice to be published at least once in a newspaper having general circulation in the postal area in which the school building is located, and if there is no newspaper having general circulation in such postal area, shall cause such notice to be posted in ten conspicuous places in such postal area. Proof of posting or publication of such notice and of the mailing of a copy of such notice to the fire chief shall be filed in the school office.

e. If the report shows any alleged deficiencies, the school authorities shall give at least five days notice by mail to the chief of the fire department or fire company responsible for fire protection of the school building of the date and place of a meeting of the trustees, board of education, or corresponding officers by whatever name known, to be held within thirty days following the publication or posting required by this section, and shall at such meeting confer with the fire chief concerning the alleged deficiencies appearing on the inspection report and the measures proposed to be taken by the school authorities to correct such deficiencies.

f. In each such school district subject to the jurisdiction of a district superintendent under the provisions of article forty-five of the education law, such district superintendent shall ascertain that the notices required by this subdivision have been published or posted, and mailed, and any conferences with the fire chief required by this subdivision has been had.

6. It shall be the duty of the commissioner of education in the case of public schools, and the director of the division of fire safety, in the case of private schools, to ascertain annually whether the inspections of school buildings required by this section have been made and the reports of the inspection have been filed in their respective offices. The commissioner of education, in the case of public schools, and the director of the division of fire safety, in the case of private schools, shall review the reports of inspection filed pursuant to this section and may make recommendations to the school authorities with respect to any problems relating to school fire safety noted in such reports. The commissioner of education, in the case of public schools, and the director of the division of fire safety, in the case of private schools, may inspect or cause to be

inspected at any reasonable time for fire prevention and fire protection purposes the school buildings required to be inspected by this section.

7. Every public or private school required to be inspected as hereinabove provided may be inspected for fire prevention and fire protection purposes at any reasonable time by

a. the chief of the fire department of the city, town, village or fire district in which the school is located,

b. the chief of a fire corporation having its headquarters outside a village or fire district, if the school is located in the area described in the certificate of incorporation of such company,

c. the chief of the fire department or fire company affording fire protection to a fire district, fire protection district, or fire alarm district pursuant to a contract, if the school is located in any such district,

d. the member of any fire department or fire company listed in paragraphs a, b or c of this subdivision assigned by the chief thereof the duty of inspecting school buildings.

8. Any person, or any public or other corporation for which any such person acts, shall not be liable for any error, omission or lack of thoroughness in the making of the inspection and report required or permitted by this section.

9. The term "school authorities", as used in this section, means in relation to public schools, the trustees, or board of education, or corresponding officers, whether one or more, and by whatever name known of a city school district, or other school district however created, or, in relation to private schools, the board of trustees, board of directors, or other governing board in general charge of the operation of any such school.

10. The term "private school", as used in this section, means:

a. Any nursery school or kindergarten attended by six or more pupils three years of age or older which may apply for registration by the New York state education department pursuant to part one hundred twenty-five of title eight of the official compilation of codes, rules and regulations of the state of New York; provided, however, that this section shall not apply to day care facilities possessing a valid permit as required by section three hundred ninety of the social services law; or

b. Any establishment, other than a public school, attended by twenty-five or more pupils for the purpose of receiving the instruction of academic grade at the elementary or secondary level required by part one of article sixty-five of this chapter.

11. This section shall not apply to the school authorities in the cities of New York, Buffalo, Rochester, Syracuse, Yonkers and Albany or to colleges and universities.

§ 807-c. Transmission of fire alarm to fire department.

1. The school authorities designated in subdivision nine of section eight hundred seven-a of this chapter in charge of the operation of any public school or of any private school designated in subdivision ten of such section, located in an area within which a fire department or fire company is responsible for fire protection and within which there is no electrically or electronically operated fire alarm reporting system provided for public use may cause the internal fire alarm, fire detection, or fire extinguishing system of each building in which is contained classroom, dormitory, laboratory, physical education, dining or recreational facilities for student use to be interconnected with the fire alarm reporting location or system which is provided for such fire department or fire company to receive alarms from the public so that upon activation of such internal fire alarm, fire detection, or fire extinguishing system a signal will be automatically transmitted to such fire alarm reporting location or system.

2. School authorities and the governing body having jurisdiction of any fire department or fire company are hereby authorized, by agreement between them, to apportion the costs of installing and maintaining any such interconnection, and such costs are hereby deemed appropriate expenditures from the funds of such school authorities and governing bodies.

§ 807-d. Locating source of fires in schools.

1. In all public and private school buildings having a central annunciator panel or fire alarm cabinet which displays a visual signal identifying any heat detector, smoke detector, or manually operated fire alarm box within the building which has been activated, there shall be provided as a part or immediately adjacent to such panel or cabinet a chart or plan showing the specific location within the building of each such device.

2. In the case of school buildings and additions to existing school buildings, the construction of which is commenced after September first, nineteen hundred seventy-three, any such panel or cabinet and such chart or plan within such building or addition shall be so located that the same may be read without entering the building.

§ 808. Instruction in fire prevention.

1. The commissioner of education is hereby directed to provide and prescribe a course of instruction in fire prevention relating to the protection of life and property against loss or damage as a result of

preventable fire, for use in the schools of the state, as prescribed by this section.

2. The board of education, trustees, principal or other person in charge of every public, private and parochial school in the state shall arrange for giving such course of instruction in every school under its or his control or direction. Such instruction shall be given to all of the pupils in every such school for a period of not less than fifteen minutes in each week during which such school is in session.

§ 809. Instruction in the humane treatment of animals and birds.

The officer, board or commission authorized or required to prescribe courses of instruction shall cause instruction to be given in every elementary school under state control or supported wholly or partly by public money of the state, in the humane treatment and protection of animals and birds and the importance of the part they play in the economy of nature. Such instruction shall be for such period of time during each school year as the board of regents may prescribe and may be joined with work in literature, reading, language, nature study or ethnology. Such weekly instruction may be divided into two or more periods. A school district shall not be entitled to participate in the public school money on account of any school or the attendance at any school subject to the provisions of this section, if the instruction required hereby is not given therein.

§ 809-a. Instruction in the safe use of firearms and in the game laws.

The officer, board, or commission authorized or required to prescribe courses of instructions in any school under state control, may authorize instructions to be given in the safe and proper use of firearms, and may also authorize instructions to be given in the study of game laws and of proper hunting and conservation practices. Such courses of instruction shall be approved by both the education department and the conservation department.

§ 810. Conservation day.

1. The last Friday in April each year is hereby made and declared to be known as Conservation day, and observed in accordance with the provisions of this chapter.

2. It shall be the duty of the authorities of every public school in this state to assemble the pupils in their charge on that day in the school building, or elsewhere, as they may deem proper, and to provide for and conduct (1) such exercises as shall tend to encourage the planting, protection and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results, and (2)

such lectures, pictures or tours, as shall tend to increase the interest and knowledge of such pupils in the fish and wild life, soil and water of the state.

3. The commissioner of education may prescribe from time to time a course of exercises and instruction in the subjects hereinbefore mentioned, which shall be adopted and observed by the public school authorities on Conservation day. Upon receipt of copies of such course sufficient in number to supply all the schools under their supervision, the school authorities aforesaid shall promptly provide each of the schools under their charge with a copy, and cause it to be observed.

§ 811. Procurement, use and possession of hypodermic syringes and needles by school personnel for educational purposes.

1. Notwithstanding the provisions of section 220.45 of the penal law, it shall be lawful for authorized persons under jurisdiction of the public school authorities in a public school; or of the state education department; or of the governing board of any other educational institution, the curriculum of which is registered by the department, to purchase, acquire, have under control, possess and use hypodermic syringes and needles for instructional or other educational purposes provided such school authorities in the case of a school district, the appropriate superior officer in the case of the department, or such governing board in the case of other institutions, has filed with the commissioner of education and with the state department of health a certificate of need for such hypodermic needles which shall set forth the following:

a. The legal designation and address of the school district, if a public school or if another school or institution, the name and address thereof, and the exact location where such hypodermic syringes and needles will be used and stored.

b. The name and address of the chief administrative officer of the school or institution.

c. The use proposed to be made of such hypodermic needles.

d. The names of persons employed in the school, the department, or other institution authorized to have custody and/or use of such hypodermic needles.

e. The safeguards to be taken to prevent such instruments from falling into the hands of unauthorized persons.

f. The disposition which will be made of unwanted or broken syringes and needles. In the case of the department such certificate shall be made and filed by the assistant commissioner under whose supervision the work involving the use of such hypodermic syringes or needles is done, and a duplicate thereof shall be filed with the state department of health.

2. Nothing contained in this section shall be construed to require the

filing of such names by medical institutions, including but not limited to public health centers, industrial clinics, diagnostic, treatment or research centers, rehabilitation facilities, nursing homes, medical schools or colleges, tuberculosis, mental chronic disease and other types of hospitals, clinical laboratories, outpatient departments, nurses training facilities and central service facilities operated in conjunction with medical institutions.

3. The commissioner, after consultation with the commissioner of health, shall make regulations for the administration of this section.

§ 3002. Oath to support federal and state constitutions.

It shall be unlawful for any citizen of the United States to serve as teacher, instructor or professor in any school or institution in the public school system of the state or in any school, college, university or other educational institution in this state, whose real property, in whole or in part, is exempt from taxation under section four of the tax law unless and until he or she shall have taken and subscribed the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the State of New York, and that I will faithfully discharge, according to the best of my ability, the duties of the position of .....(title of position and name or designation of school, college, university or institution to be here inserted), to which I am now assigned."

The oath required by this section shall be administered by the president or other head of such school, college, university or institution, or by the officer or person, or in the case of a board or body by a member of the board or body, having authority to employ such person as a teacher, instructor or professor in such school, college, or university or institution, and each is hereby authorized to administer it. The officer, person or member administering such oath shall cause a record or notation of the fact to be made in the books or records of the school, college, university or institution. In lieu of the oath administered by an officer, person or member, an employee may comply with the requirements of this section by subscribing and filing the following statement: "I do hereby pledge and declare that I will support the constitution of the United States and the constitution of the State of New York, and that I will faithfully discharge the duties of the position of.....according to the best of my ability." Such oath or statement shall be filed with the clerk of a school district or with such officer or employee of any such college, university or other educational institution that shall be designated for such purpose. Such oaths or statements shall be available for public inspection and for transmittal to the commissioner of education upon his request. It shall be unlawful for an officer,

person or board having control of the employment, dismissal or suspension of teachers, instructors or professors in such a school, college, university or institution, to permit a person to serve in any such capacity therein in violation of the provisions of this section. This section shall not be construed to require a person to take such oath or to execute such statement more than once during the time he or she is employed in the same school, college, university or institution, though there be a change in the title of duties of the position.

The provisions of section sixty-two of the civil service law shall not apply to a person who is required to take the oath or execute the statement prescribed by this section.

NOTE: Civil Service Law, Section sixty-two, relates to employees of the State and its civil divisions other than school districts.

§ 3204. Instruction required.

1. Place of instruction. A minor required to attend upon instruction by the provisions of part one of this article may attend at a public school or elsewhere. The requirements of this section shall apply to such a minor, irrespective of the place of instruction.

2. Quality and language of instructions; text-books. Instruction may be given only by a competent teacher. In the teaching of the subjects of instruction prescribed by this section, English shall be the language of instruction, and text-books used shall be written in English, except that for a period of three years from the date of enrollment in school, pupils who, by reason of foreign birth, ancestry or otherwise, experience difficulty in reading and understanding English, may, in the discretion of the board of education, board of trustees or trustee, be instructed in all subjects in their native language and in English. Instruction given to a minor elsewhere than at a public school shall be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor resides.

2a. Bilingual instruction in schools. 1. The governing board of any school district is hereby empowered to determine the circumstances and necessity wherein instruction shall be given bilingually. The said governing board shall design the necessary procedures and acquire the necessary training materials and equipment to meet the special educational needs of children of limited English speaking ability through programs designed to accomplish the following:

a. bilingual education;

b. to impart to students a knowledge of the history and culture associated with their languages;

c. to establish closer cooperation between the school and the home;

d. to provide early childhood educational programs related to the

purposes of this section and designed to improve the potential for profitable learning activities by children;

e. to provide adult education programs related to the purposes of this section, particularly for parents of children participating in bilingual programs;

f. to provide programs designed for dropouts or potential dropouts having need of bilingual programs;

g. to provide programs to be conducted by accredited trade, vocational or technical schools; and

h. to provide other activities deemed desirable to further the purposes of this section.

2. Any duly authorized local educational agency or agencies is hereby empowered to make application for any grant or grants in furtherance of this section under Title VII Public Law 90-247 as enacted by the United States Congress January second, nineteen hundred sixty-eight.

3. Courses of study. a. (1) The course of study for the first eight years of full time public day schools shall provide for instruction in at least the twelve common school branches of arithmetic, reading, spelling, writing, the English language, geography, United States history, civics, hygiene, physical training, the history of New York state and science.

(2) The courses of study and of specialized training beyond the first eight years of full time public day schools shall provide for instruction in at least the English language and its use, in civics, hygiene, physical training, and American history including the principles of government proclaimed in the Declaration of Independence and established by the constitution of the United States.

(3) The courses of study beyond the first eight years of full time public day schools may provide a program for a course in "communism and its methods and its destructive effects."

b. For part time day schools. The course of study of a part time public day school shall include such subjects as will enlarge the civic and vocational intelligence and skill of the minors required to attend.

c. For evening schools. In a public evening school instruction shall be given in at least speaking, reading, and writing English.

d. For parental schools. In a parental school provision shall be made for vocational training and for instruction in other subjects appropriate to the minor's age and attainments.

e. Changes in courses of study. The state education department shall have power to alter the subjects of instruction as prescribed in this section.

4. Length of school sessions. a. A full time day school or class, except as otherwise prescribed, shall be in session for not less than one hundred ninety days each year, inclusive of legal holidays that occur during the

term of said school and exclusive of Saturdays.

b. A part time day school or class shall be in session each year for at least four hours of each week during which the full time day schools are in session.

c. Evening schools shall be in session each year as follows:

(1) In cities having a population of one hundred thousand or more, on at least one hundred nights;

(2) In cities having a population of fifty thousand but less than one hundred thousand, on at least seventy-five nights;

(3) In each other city, and in each school district where twenty or more minors from seventeen to twenty-one years of age are required to attend upon evening instruction, on at least fifty nights.

5. Subject to rules and regulations of the board of regents, a pupil may, consistent with the requirements of public education, and public health, be excused from such study of health and hygiene as conflicts with the religion of his parents or guardian. Such conflict must be certified by a proper representative of their religion as defined by section two of the religious corporations law.

(The 190 days required by paragraph four no longer applies. Section 3604 on which State aid is based was amended in 1958 to provide for a session of 180 days. Through oversight, section 3204, paragraph 4 was not amended. The intent is to require 180 days of instruction.)

§ 3210. Amount and character of required attendance.

1. Regularity and conduct. a. A minor required by the provisions of part one of this article to attend upon instruction shall attend regularly as prescribed where he resides or is employed, for the entire time the appropriate public schools or classes are in session and shall be subordinate and orderly while so attending.

b. Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.

2. Attendance elsewhere than at a public school. a. Hours of attendance. If a minor included by the provisions of part one of this article attends upon instruction elsewhere than at a public school, he shall attend for at least as many hours, and within the hours specified therefor.

b. Absence. Absence from required attendance shall be permitted only for causes allowed by the general rules and practices of the public schools. Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.

c. Holidays and vacations. Holidays and vacations shall not exceed in total amount and number those allowed by the public schools.

d. Exception. In applying the foregoing requirements a minor re-

quired to attend upon full time day instruction by the provisions of part one of this article may be permitted to attend for a shorter school day or for a shorter school year or for both, provided, in accordance with the regulations of the state education department, the instruction he receives has been approved by the school authorities as being substantially equivalent in amount and quality to that required by the provisions of part one of this article.

§ 3211. Records of attendance upon instruction.

1. Who shall keep such record. The teacher of every minor required by the provisions of part one of this article to attend upon instruction, or any other school district employee as may be designated by the commissioner of education under section three thousand twenty-four of this chapter, shall keep an accurate record of the attendance and absence of such minor. Such record shall be in such form as may be prescribed by the commissioner of education.

2. Certificates of attendance to be presumptive evidence. A duly certified transcript of the record of attendance and absence of a child which has been kept, as provided in this section, shall be accepted as presumptive evidence of the attendance of such child in any proceeding brought under the provisions of part one of this article.

3. Inspection of records of attendance. An attendance officer, or any other duly authorized representative of the school authorities, may at any time during school hours, demand the production of the records of attendance of minors required to be kept by the provisions of part one of this article, and may inspect or copy the same and make all proper inquiries of a teacher or principal concerning the records and the attendance of such minors.

4. Duties of principal or person in charge of the instruction of a minor. The principal of a school, or other person in charge of the instruction upon which a minor attends, as provided by part one of this article, shall cause the record of his attendance to be kept and produced and all appropriate inquiries in relation thereto answered as hereinbefore required. He shal give prompt notification in writing to the school authorities of the city or district of the discharge or transfer of any such minor from attendance upon instruction, stating the date of the discharge, its cause, the name of the minor, his date of birth, his place of residence prior to and following discharge, if such place or residence be known, and the name of the person in parental relation to the minor.

REGULATIONS OF THE COMMISSIONER

§ 101.7 Pupil attendance record keeping.

(a) Definitions. Whenever used in this section, the following terms shall have the respective meanings hereinafter set forth or indicated:

(1) Pupil. A child enrolled in any public school in the State of New York.

(2) Register of attendance. Any book, card or other form used to keep a record or list or account of attendance, absence and tardiness of a pupil, the form of which shall have been approved by the Commissioner of Education.

(3) Teacher. A member of the teaching and supervisory staff of a school district of the State.

(4) Employee other than a teacher. A suitable person other than a teacher employed by a school district of the State in a position appropriate for keeping of records.

(b) The record of each pupil's attendance, absence and tardiness shall be kept by each school district in a register of attendance in a manner approved by the Commissioner of Education.

(c) The register of attendance shall set forth at least the following for each pupil:

(1) name;

(2) date of birth;

(3) full names of parents or guardians;

(4) address.

(d) All entries in a register of attendance shall be made either by a teacher or by an employee other than a teacher designated by the board of education.

(e) The board of education shall designate a teacher to supervise the keeping of the register of attendance where an employee other than a teacher is designated by the board of education as the person to make entries in the register of attendance.

(f) The entries in the register of attendance shall be verified by the oath or affirmation of the person making the entries in the register of attendance.

RULES OF THE BOARD OF REGENTS AND REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Section 207 of the Education Law and Chapter 507 of the Laws of 1974

1. Section 3.36 of the Rules of the Board of Regents.

3.36 Nonpublic Schools. The Commissioner of Education, with the approval of the Regents, shall promulgate regulations relating to the apportionment of funds to nonpublic schools pursuant to the provisions of chapter 507 of the Laws of 1974.

2. Part 176 of the Regulations of the Commissioner of Education.

PART 176

APPORTIONMENT OF FUNDS TO NONPUBLIC SCHOOLS

Section 176.1 *Definitions.* As used in this Part:

(a) Salary shall mean only gross wages paid to the employee. Salary shall not include any cost to the employer for such expenditures as those made for social security, retirement, any form of employee insurance, fringe benefits, dues or reimbursement of the employee for any expense incurred as the result of employment.

(b) Fringe benefits shall mean the employer's share of the following benefits, to the extent such share is actually paid for the benefit of employees engaged in providing required services: retirement, social security, workmen's compensation, insurance, life insurance, unemployment insurance, disability insurance, and union welfare benefits. The cost of employee maintenance such as meals, housing, and clothing, is not a fringe benefit for the purpose of this subdivision.

(c) Actual costs shall mean the actual amount of money directly expended for reporting, evaluating and administering pupil evaluation programs (PEP), the basic educational data system (BEDS), Regents examinations, Regents scholarship examinations, and the uniform procedure for pupil attendance reporting.

176.2 *Application for apportionment and required accounting records.*

(a) A nonpublic school requesting apportionment of State monies in connection with Chapter 507 of the Laws of 1974 shall submit an application to the State Education Department in the form and at such time as the Commissioner of Education shall require. In addition such nonpublic school shall submit completed apportionment worksheets as required by the Commissioner of Education.

(b) Each nonpublic school making application for apportionment during the school year 1975-76 and thereafter shall maintain at least the following records in support of the claim for apportionment:

(1) A separate set of expenditure accounts for each required service showing the amounts which are claimed for apportionment. These shall include accounts for salaries, supplies and materials, contractual expenses and fringe benefits.

(2) A time record for each employee involved in providing services for which apportionment is requested. This record shall clearly indicate the amount of time devoted to each service.

(3) An individual salary record for each employee involved in providing services for which apportionment is requested. This record shall show gross salary, payroll deductions and net salary by payroll period. Payroll summary records yielding the same information may be maintained in lieu of individual salary records.

(4) A voucher file which shall include all paid vouchers, in whole or in part, used to substantiate costs included in the claim for apportionment.

176.3 *Payment of apportionments.*

(a) Apportionments to a qualifying school which is incorporated by the Board of Regents or pursuant to a general or special law shall be paid to the corporation, or another corporate entity designated by such corporation to receive apportionments on behalf of such qualifying school.

(b) Apportionments to a qualifying school which is not incorporated shall be paid, on behalf of such school, to a corporate body, designated by such school and approved by the Commissioner, whose corporate purposes include the supervision or support of such school, or if there is no such corporate body, to a corporation authorized to do business in this State which is designated by such school, with the approval of the Commissioner, for the purpose of receiving such payments for the benefit of such school.

GENERAL DEFINITIONS AND GUIDELINES

I. Definitions.

1. Salary shall mean only gross wages paid to the employee. Salary shall not include any cost to the employer for such expenditures as those made for social security, retirement, any form of employee insurance, fringe benefits, dues or reimbursement of the employee for any expense incurred as the result of employment.

2. Fringe benefits shall mean the employer's share of the following benefits, to the extent such share is actually paid for the benefit of employees engaged in providing required services: retirement, social security, workmen's compensation insurance, life insurance, unemployment insurance, disability insurance, health insurance, and union welfare benefits. The cost of employee maintenance such as meals, housing, and clothing, is not a fringe benefit for the purpose of this subdivision.

3. Actual costs shall mean the actual amount of money directly expended for reporting, evaluating and administering pupil evaluation programs (PEP), the basic educational data system (BEDS), Regents examinations, Regents Scholarship examinations, and the uniform procedure for pupil attendance reporting.

4. Chief Administrative Officer shall mean the person ultimately responsible for the operation, administration, and supervision of the school including pupils and staff, such as the principal of the school, the superintendent, or someone with another title having the same duties.

5. Commissioner shall mean the Commissioner of Education.

6. Corporate Entity shall mean a school which is incorporated by the Board of Regents or pursuant to a general or special law, or a corporate body designated by such school and approved by the Commissioner whose corporate purpose includes the supervision or support of such school, or any other corporate body approved by the Commissioner.

7. Nonprofit School shall mean a school organized and conducted solely for educational purposes; no part of its assets or income shall be distributable to or enure to the benefit of any shareholder, director,

officer, or employee, except for reasonable compensation for services rendered. If such school is a corporation it shall possess a valid and current certificate of exemption from taxation issued pursuant to United States Internal Revenue Code, Section 501, (c) (3).

8. Nonpublic School shall mean any school other than public being operated in accordance with the compulsory education law.

9. Qualifying School shall mean a nonprofit school in the State, other than a public school, which provides instruction in accordance with Section 3204 of the Education Law.

II. Religious or Denominational Education Institutions.

Any school where preference is granted a certain religious group in regard to admission shall file a Certificate of Religious or Denominational Institution in accordance with Section 313 of the Education Law. All children shall have equal opportunity to attend therein without discrimination because of race, color, or national origin. This form shall be filed by nonpublic schools making application for the first time or schools whose status has been changed in regard to admissions policy.

III. Report Forms.

1. How to Obtain.

Report forms will be mailed to all nonpublic schools known to the State Education Department (those schools which have been completing the Basic Educational Data System Report). Other schools should write for forms to the New York State Education Department (Office of Nonpublic School Services, 55 Elk Street, Albany, New York 12234).

2. Identification of Report Forms and Due Dates.

a. Attendance Report (AT-6N — due July 15 following the completion of the school year (Office of Nonpublic School Services)

b. Basic Educational Data System, Report of Nonpublic Schools — due November 1 (Bureau of Educational Data Systems)

c. Certificate of Religious or Denominational Institution — due October 1 (with first application only) (Office of Nonpublic School Services)

d. Secondary School Report (High School and six-year secondary) — due October 15 (Bureau of Secondary School Supervision)

e. Application for Nonpublic School Apportionment Form SA-185 — due October 1 (Office of Nonpublic School Services)

f. Pupil Evaluation Program Test — due November 15 (Bureau of Pupil Testing and Advisory Services)

g. Nonpublic School Apportionment Worksheet Form

SA-186 — due November 1 (Division of Educational Finance)

h. Justification of Salary and Fringe Benefit Costs Claimed for State Aid For Testing, Reporting and Evaluating Form SA-187 — due November 1. (This form is to be used only for 1973-74 expenses to be aided in 1974-75 school year.) (Division of Educational Finance)

i. Other Reports — any other reports that may be required by law — due dates will be assigned later.

IV. Criteria for Apportionment.

1. Certification. Each nonpublic school shall certify that:

a. It is a nonprofit school which is located in the State, other than a public school, which provides instruction in accordance with Section 3204 of the Education Law.

b. It is maintaining a separate account or system of accounts for the expenses incurred in rendering the services required by the State to be performed in connection with pupil attendance reporting, testing and evaluating of programs for which a State apportionment is claimed. Such records and accounts shall contain such information and be maintained as required by regulations and guidelines issued by the Commissioner and in accordance with the booklet titled "System of Accounts for Nonpublic Schools Receiving State Aid," published by the Division of Educational Management Services of the Education Department.

2. Audit.

a. No application for financial assistance pursuant to this act shall be approved by the Commissioner except upon audit of vouchers or other documents as are necessary to insure that such payment is lawful and proper.

b. In addition to the audit performed by the Commissioner, the State Department of Audit and Control shall from time to time examine any and all necessary accounts and records of a qualifying school related to the services for which an apportionment has been made pursuant to this act. This shall be for the purpose of determining the cost to such school of rendering required services in connection with the State's pupil evaluation program, the basic educational data system, Regents examinations, Regents Scholarship examinations and the uniform procedure for pupil attendance reporting. If, after such audit, it is determined that any qualifying school has received funds in excess of the actual cost of providing the services, such school shall immediately reimburse the State in such excess amount. The records and accounts substantiating actual costs in providing these services shall be preserved at the school until the completion of such audit procedures.

V. Directions for Completing Apportionment Forms.

1. Application for Nonpublic School Apportionment, Form SA-185.

Each nonpublic school meeting the necessary criteria and applying for aid shall file a completed Application for Nonpublic School Apportionment, Form SA-185, with the Office of Nonpublic School Services by October 1 of each year. The items in the application shall be completed as follows:

a. Names of Nonpublic School — list the popular name of the school;

b. Identification Number — nonpublic schools applying for the first time, leave blank — all others enter the number assigned by the Bureau of Statistical Services of the State Education Department;

c. Location — include street address, city, town or village, and county of the school;

d. Mailing Address — list only if different from the location of the schools;

e. Name of Corporate Entity — enter the name as defined in definition;

f. Address — enter mailing address of corporate entity;

g. Date School Registered — if the school is registered, show the date the school was last registered with the Board of Regents;

h. Registering Name — indicate the exact name of the school under which it is registered;

i. Date Entity Incorporated — if the school is chartered by the Board of Regents or is incorporated pursuant to a general or special law, or if the school has designated a corporate body to receive its apportionment, enter the date of incorporation of such corporate body;

j. Incorporation Name — indicate the exact name of the corporate entity as incorporated;

k. Religious Affiliation — if a denominational school, state religious affiliation;

l. The affidavit on the Application for Nonpublic School Apportionment is to be attested to by the chief administrative officer before a notary public.

2. Nonpublic Apportionment Worksheet, Form SA-186.

Each nonpublic school shall file this form by November 1 in accordance with the following directions:

a. Complete the name and identification number of the school, mailing address, and the name of the person filling out the form.

b. Insert total costs of personal services, materials and supplies and other expenses (contractual) relative to the expenditure items specified in entries 1 through 7.

c. Insert the sum of entries 1 through 7 in entry 8.

d. The statement of compliance shall be completed by the chief administrative officer of the nonpublic school who shall indicate his official title.

3. Justification of Salary and Fringe Benefit Costs Claimed For State Aid For Testing, Reporting and Evaluating Form SA-187 (To be submitted for 1973-74 claims only). Each nonpublic school shall file the Justification Worksheet Form SA-187 along with the Nonpublic Apportionment Worksheet Form SA-186. Directions for completing Justification Worksheet Form SA-187 are attached to the worksheet.

VI. Payment of Apportionment.

The apportionment will be paid to the corporate entity identified as the appropriate payee on the Application for Nonpublic School Apportionment, Form SA-185, as approved by the Commissioner. The amount to be apportioned to a school in any school year will be paid in two installments, the first to consist of one-half of the estimated total apportionment to be paid prior to January 31 of such year, and the second to consist of the balance to be paid as soon as possible after April 1 of such year. Each payment to a nonpublic school pursuant to this act shall be accompanied by a written notice stating that such payment is in consideration for expenses incurred for testing, evaluating and reporting to the State of various reports and examinations as required by law or regulation.